IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6542 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE D.P.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

DIVISIONAL CONTROLLER

Versus

NATWARBHAI G RANA

Appearance:

MR Hardik RAVAL for Petitioner

MR BB DESAI for Respondent No. 1

CORAM : MR.JUSTICE D.P.BUCH

Date of decision: 09/02/2001

ORAL JUDGEMENT

1. The petitioner - Gujarat State Road Transport Corporation (hereinafter referred as "Corporation" for short) has filed this petition under Article 227 of the Constitution of India for appropriate writ, order or

direction for quashing and setting aside the Award passed by the Labour Court at Surat in Reference No. LCS 49 of 1987 directing the petitioner Corporation to reinstate the respondent in his original position in employment as a Conductor of S.T. Bus with the present pay scale with benefit of continuity in service without back wages. However, a direction has been given that two annual increments with cumulative effect will be withheld.

2. The facts may be briefly stated as follows :-

The respondent was serving as a bus conductor in the employment of the petitioner Corporation. On 21st June, 1980, when he was on duty in a bus enroute Surat Dahtawa, a surprise checking was made by checking party. It was found by the checking party that the respondent had misappropriated a sum of approximately Rs. 1500/- and there was a shortage of Rs. 1500/- in his bag. He was chargesheeted and after Departmental Inquiry, he was dismissed from the service. The respondent challenged the said dismissal before the Labour Court by the aforesaid Reference. The Labour Court found that he was guilty for the aforesaid charge, but looking to the fact that the respondent was in service since 18 years, the Labour Court found it fit to reinstate him without back wages on the aforesaid conditions.

3. Feeling aggrieved by the said judgement and Award dated 28.3.1988 of the learned Judge of the Labour Court, Surat, the petitioner has preferred this petition before this Court.

4. It has been contended that when the respondent had misappropriated the amount of Rs. 1500/-, no leniency could have been shown to him and therefore, the punishment imposed was legal and proper. That therefore, the Award of the Labour Court is illegal and hence it may be quashed and set aside.

5. Rule was issued in the petition and Mr. B.B. Desai, learned advocate for the respondent has waived service of Rule.

6. On hearing the learned advocate for the petitioner, it is clear that the respondent was in service at the relevant point of time since about 18 years. It is true that the amount of Rs. 1500/- was found short in his custody at the time when the bus was checked. Therefore, the Inquiry Officer was justified in holding him guilty. In the Departmental Inquiry he was also found guilty. The Labour Court has also found him

guilty. However, considering the fact that the respondent had 18 years of service and there was no criminal prosecution filed against the respondent, the Disciplinary authority ought to have considered the length of service also. There is nothing on the record to show that his past record was absolutely bad and past record did not justify the interference with the aforesaid order by the Labour Court.

7. When the aforesaid order of the Labour Court is not shown to be basically illegal, it would not be proper and just for this Court to interfere with the said order of the Labour Court, while exercising the power conferred under Article 227 of the Constitution of India.

8. In that view of the matter, I am of the opinion that this is not a fit case for this Court to exercise the aforesaid Constitutional powers and jurisdiction to quash and set aside the aforesaid order of the Labour Court.

9. In that view of the matter, I am of the opinion that there is no merit in the present petition and therefore, it deserves to be dismissed.

10. This petition is therefore, ordered to be dismissed accordingly. Rule stands discharged. There shall be no order as to costs.

(D.P.Buch, J.)

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